

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Miriam Lynch	Team: Squad #9	CCRB Case #: 201510769	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 12/22/2015 10:25 PM	Location of Incident: Front of § 87(2)(b)	Precinct: 73	18 Mo. SOL 6/22/2017	EO SOL 6/22/2017	
Date/Time CV Reported Wed, 12/23/2015 10:34 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 12/23/2015 10:34 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Anibal Torres	2123	947862	GANG BN
2. POM Dennis Westbrook	19650	947605	GANG BN
3. DT3 Dean Campbell	1220	946449	GANG BN
4. POM Orlando Sanchez	13382	935691	GANG BN

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Anibal Torres	Abuse: Detective Anibal Torres stopped § 87(2)(b)	§ 87(2)(b)
B.POM Dennis Westbrook	Abuse: Police Officer Dennis Westbrook stopped § 87(2)(b)	§ 87(2)(b)
C.DT3 Dean Campbell	Abuse: Detective Dean Campbell stopped § 87(2)(b)	§ 87(2)(b)
D.POM Orlando Sanchez	Abuse: Police Officer Orlando Sanchez stopped § 87(2)(b)	§ 87(2)(b)
E.DT3 Anibal Torres	Abuse: Detective Anibal Torres frisked § 87(2)(b)	§ 87(2)(b)
F.POM Dennis Westbrook	Abuse: Police Officer Dennis Westbrook refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
G.DT3 Dean Campbell	Abuse: Detective Dean Campbell refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
H.POM Orlando Sanchez	Abuse: Police Officer Orlando Sanchez refused to provide his name and shield number to § 87(2)(b)	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On December 22, 2015, at approximately 10:20 p.m. § 87(2)(b) and § 87(2)(b) were standing and talking in front of their apartment building, § 87(2)(b) in Brooklyn. § 87(2)(b) was approached and stopped by Det. Anibal Torres, PO Dennis Westbrook, PO Orlando Sanchez, and Det. Dean Campbell, all of the Brooklyn North Gang (**Allegations A, B C, and D**). Det. Torres proceeded to frisk § 87(2)(b) (**Allegation E**). § 87(2)(b) then asked for Det. Torres', PO Westbrook's, PO Sanchez's, and Det. Campbell's shield numbers. Before leaving the scene, Det. Torres provided his name and shield number, however PO Westbrook, PO Sanchez, and Det. Campbell did not provide theirs (**Allegations F, G, and H**). Neither § 87(2)(b) nor § 87(2)(b) were arrested or issued a summons as a result of this incident.

Video footage was not available for this incident.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation, due to § 87(2)(b)'s stated intention to file a lawsuit (B.R. 1).
- As of January 8, 2016, § 87(2)(b) had not filed a Notice of Claim in relation to this incident (B.R. 2).
- § 87(2)(b) § 87(2)(c)

Civilian and Officer CCRB Histories

- This is the second CCRB complaint involving § 87(2)(b) § 87(2)(b)
- Det. Torres has been a member of service for seven years. Four prior CCRB complaints have been filed against him, totaling eight prior allegations. None of these allegations have been substantiated (B.R. 5).
- PO Westbrook has been a member of service for seven years. Four prior CCRB complaints have been filed against him, totaling ten prior allegations. None of these allegations have been substantiated (B.R. 5).
- Det. Campbell has been a member of service for eight years. Six prior CCRB complaints have been filed against him, totaling 11 allegations. None of these allegations has been substantiated. One subsequent complaint, case 201601115, is currently under investigation (B.R. 5).
- PO Sanchez has been a member of service for 11 years. Three prior CCRB complaints have been filed against him, for a total of four prior allegations. One of these allegations has been substantiated (B.R. 5).
 - In case 201402818, the CCRB recommended that PO Sanchez be given formalized training for refusal to provide name and shield allegations. The NYPD gave PO Sanchez instructions.

Potential Issues

- Video footage was subpoenaed from Services for the Underserved, which manages § 87(2)(b) but the footage was deleted before the organization processed the subpoena (B.R.6).
- § 87(2)(b) the witness in this case, gave an unverified phone statement about this incident, but was ultimately uncooperative with the investigation and missed two appointments to provide an in-person statement.

Findings and Recommendations

Explanation of Subject Officer Identification

- Allegations A and E, stop and frisk allegations, respectively, are pleaded to Det. Torres. Allegations B and F, stop and refusal to provide shield number allegations, respectively, are pleaded to PO Westbrook. Allegations C and G, stop and refusal to provide name and shield number allegations, respectively, are pleaded to Det. Campbell. Allegations D and H, stop and refusal to provide name and shield allegations, respectively, are pleaded to PO Sanchez.

Allegation A –Abuse of Authority: Detective Anibal Torres stopped § 87(2)(b)

Allegation B –Abuse of Authority: Police Officer Dennis Westbrook stopped § 87(2)(b)

Allegation C –Abuse of Authority: Detective Dean Campbell stopped § 87(2)(b)

Allegation D –Abuse of Authority: Police Officer Orlando Sanchez stopped § 87(2)(b)

It is undisputed that Det. Torres, PO Westbrook, Det. Campbell, and PO Sanchez stopped § 87(2)(b) in front of § 87(2)(b) in Brooklyn on December 22, 2015.

§ 87(2)(b) stated that he was simply talking with § 87(2)(b) an individual who lives in his building, for approximately 20 minutes before he was stopped by Det. Torres, PO Westbrook, Det. Campbell, and PO Sanchez. He claimed that he was not drinking anything prior to being stopped, denied carrying any contraband, and also denied exchanging anything with § 87(2)(b) while the two were speaking (B.R. 1). § 87(2)(b) in an unverified phone statement, corroborated this (B.R. 7). § 87(2)(b) claimed that on the day of the incident, he was wearing red sweatpants, a black coat, and a red and black hat (B.R. 1).

Det. Torres' stated that when he first observed § 87(2)(b) § 87(2)(b) was dressed in Bloods gang colors, and was drinking alcohol in plain view. Det. Torres testified that when he first saw § 87(2)(b) he was drinking from a six- to eight-ounce plastic cup. § 87(2)(b) was also drinking from a similar cup with § 87(2)(b). Det. Torres stated that when he first approached § 87(2)(b) § 87(2)(b) discarded the cup between two parked cars. Det. Torres claimed that he smelled spilled alcohol on the ground while standing seven to ten feet from this cup. Det. Torres did not identify § 87(2)(b) as a gang location, but he stated that the Bloods gang is active in the nearby Ocean Hill neighborhood. Det. Torres stated that he did not issue § 87(2)(b) a summons for drinking from an open container in public because during the course of the stop of § 87(2)(b) he learned that it was § 87(2)(b)'s birthday (B.R. 8).

PO Westbrook testified that he stopped § 87(2)(b) because he thought that § 87(2)(b) was hiding a weapon and because he was wearing red, a color associated with the Bloods gang. He believed that § 87(2)(b) was hiding a weapon because he saw § 87(2)(b) duck between two cars, causing PO Westbrook to lose sight of him for several seconds. He could not describe any item that § 87(2)(b) may have been holding prior to him ducking in between cars, nor did he see § 87(2)(b) discard any object between the two cars. PO Westbrook claimed that in his six-month tenure as a gang officer, he has recovered one firearm from behind a car, which was his rationale for believing that the item § 87(2)(b) may have been discarding was in fact a weapon. He deemed "most" or "all" of the Brownsville neighborhood and the 73rd Precinct as a gang-prone location, but did not provide a more specific geographic area.

PO Westbrook also stated that an additional factor contributing to the stop of § 87(2)(b) was that upon looking where § 87(2)(b) had “ducked,” he saw a Styrofoam cup. PO Westbrook testified that he has issued “over 400 summonses” for drinking in public to individuals carrying Styrofoam cups. PO Westbrook stated that the Styrofoam cup still contained alcohol in it, though he neither remembered what kind of alcohol it was, nor did he remember how he determined how the contents were alcohol. PO Westbrook stated that § 87(2)(b) was not issued a summons for drinking in public due to officer discretion. The fact that § 87(2)(b) was stopped on his birthday was not a contributing factor to the officers not issuing § 87(2)(b) a summons for drinking in public (B.R. 9).

Det. Campbell testified that he did not see or initially know why § 87(2)(b) was stopped. He was told after the stop was over that § 87(2)(b) had been drinking. He claimed that there was too much other trash on the ground at the time of the stop to locate the cup that Det. Torres later claimed § 87(2)(b) had been holding. Det. Campbell remembered neither the clothes that § 87(2)(b) was wearing, nor any other factors that contributed to the stop (B.R. 10).

PO Sanchez attributed the reasons behind the stop to observations that he later learned from Det. Torres and PO Westbrook. PO Sanchez was informed that § 87(2)(b) was hiding a weapon between two cars. He stated that when he approached the location where § 87(2)(b) allegedly hid a weapon, he saw a cup between two cars, but he could not remember the size, color, or material of this cup, nor did he note what was in it. PO Sanchez stated that later in the stop, § 87(2)(b) was verbally belligerent, which made PO Sanchez believe, informed by his 11 months as a Gang officer, that § 87(2)(b) had a weapon on his person. Nothing else about § 87(2)(b)'s appearance suggested that he was armed or otherwise engaging in criminal activity (B.R. 11).

PO Westbrook completed a UF-250 for this incident. He stated that “furtive movements” and “clothing commonly worn in the commission of a crime” were the primary factors that went into the stop. PO Westbrook clarified that ducking behind the car and the red clothing was the primary reasons behind the stop. He also listed § 87(2)(b) as wearing gang colors, but did not specify what they were on the UF-250 (B.R. 12).

People v. DeBour, 40 N.Y.2d 201 (1976) requires that officers have reasonable suspicion that an individual is engaging, has engaged, or is about to engage in criminality before stopping them (B.R. 13).

§ 87(2)(g)

§ 87(2)(g)

Allegation E—Abuse of Authority: Detective Anibal Torres frisked § 87(2)(b)

It is undisputed that Det. Torres frisked § 87(2)(b) after stopping him. § 87(2)(b) stated that Det. Torres tried to pat down his coat pockets upon initially approaching him, but § 87(2)(b) covered his pockets with his hands. An officer then picked up a clear plastic cup from the curb, and Det. Torres accused § 87(2)(b) of drinking. Det. Torres proceeded to frisk § 87(2)(b)'s waistband and front coat pockets.

Det. Torres stated that he patted down § 87(2)(b)'s left pants pocket. He stated that he saw a bulge that was three inches wide, and not more than six inches long in this pocket. He could not tell what this bulge was before he touched it, and could not definitively identify it as a weapon. In addition, Det. Torres stated that he asked § 87(2)(b) twice not to place his hand in his pocket, and § 87(2)(b) disobeyed this order. Det. Torres placed his hand on § 87(2)(b)'s wrist before he frisked the pocket, to keep § 87(2)(b) from pulling anything out of the pocket. After patting down the pocket, Det. Torres determined that the bulge did not feel like a weapon. Det. Torres did not remember patting down any other areas of § 87(2)(b)'s body (B.R. 8).

PO Westbrook stated that § 87(2)(b) was carrying a cellphone in his pocket. There was a cellphone-shaped bulge on § 87(2)(b)'s body, but PO Westbrook could not say in which pocket it was, what size it was, nor what shape it was. PO Westbrook testified that he saw Det. Torres pat down § 87(2)(b)'s entire outer layer of clothing, including his shoulders, back, waistband, and legs (B.R. 9).

Det. Campbell testified that when he left the vehicle, he saw Det. Torres frisking § 87(2)(b)'s waistband. Det. Torres was already in the middle of the frisk by the time Det. Campbell got to the sidewalk. Det. Campbell did not see Det. Torres frisk any other part of § 87(2)(b) (B.R. 10).

PO Sanchez did not remember any officer frisking § 87(2)(b) § 87(2)(b)'s verbally belligerent behavior, and his briefly throwing up his hands were the only factors that made PO Sanchez believe that § 87(2)(b) was armed (B.R. 11).

People v. DeBour, 40 N.Y.2d 201 (1976) allows officers a “minimal intrusion” onto an individual’s person if they reasonably suspect that an individual is armed, and consequently fear for their safety.

§ 87(2)(g)

§ 87(2)(g)

Allegation F—Abuse of Authority: Police Officer Dennis Westbrook refused to provide his shield number to § 87(2)(b)

Allegation G—Abuse of Authority: Detective Dean Campbell refused to provide his shield number to § 87(2)(b)

Allegation H—Abuse of Authority: Police Officer Orlando Sanchez refused to provide his name and shield number to § 87(2)(b)

It is in dispute whether PO Westbrook, Det. Campbell, and PO Sanchez refused to provide their shield numbers to § 87(2)(b)

§ 87(2)(b) testified that he asked all four officers for their shield numbers approximately five times, towards the end of the incident. He stated that the officers were still standing and surrounding him when he did so. He testified that Det. Torres was the only officer who provided his shield number (B.R. 1).

Det. Torres confirmed that § 87(2)(b) asked him for his shield number, and that he provided it, but he did not remember whether he asked any other officer for his shield number (B.R. 8).

PO Westbrook testified that § 87(2)(b) only asked Det. Torres for his shield number, and that § 87(2)(b) did not ask any other officer. PO Westbrook had already returned to his vehicle, and was standing next to it, when § 87(2)(b) asked for Det. Torres’ shield number. PO Westbrook

stated that he did not provide his shield number to § 87(2)(b) because § 87(2)(b) did not ask for it specifically (B.R. 9).

Det. Campbell also testified that only Det. Torres was asked for his shield number, and that he only remembered Det. Torres providing it. He did not remember providing his shield number to § 87(2)(b) (B.R. 10).

PO Sanchez stated that § 87(2)(b) asked each officer for his shield number once, and that each officer, including himself, provided it verbally (B.R. 11).

Patrol Guide 203-09 requires that officers give their names and shield numbers verbally and clearly when asked for them (B.R. 14).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Squad #9

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date